



COPY OF PAPERS
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PATENT
BALIN-59231

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Michael E. Tompkins, et al.

Serial No. 10/043,799

Filing Date: January 9, 2002

For: SPA CONTROL SYSTEM

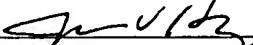
Date: March 26, 2002

Examiner: TBD

Art Unit: 2121

Certificate of Mailing Under 37 C.F.R. § 1.8

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John V. Hanley, Reg. No. 38,171

**PETITION TO MAKE SPECIAL BECAUSE OF
ACTUAL INFRINGEMENT (37 C.F.R. § 1.102 AND M.P.E.P. § 708.02)**

Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

RECEIVED

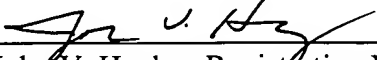
APR 10 2002

Technology Center 2100

Applicant hereby petitions to make this application special because of actual infringement. Accompanying this petition is a Statement by Assignee in Support of Petition to Make Special Because of Actual Infringement. Also enclosed is a fee to cover this petition. Authorization is hereby made to charge any additional fees required by this paper or credit any overpayment to our deposit account number 06-2425. A duplicate of this paper is attached.

Respectfully submitted,

FULWIDER PATTON LEE & UTECHT, LLP

By: 
John V. Hanley, Registration No. 38,171

JVH:kst
Enclosures
6060 Center Drive, Tenth Floor
Los Angeles, California 90045
(310) 824-5555; (310) 824-9696 facsimile
#230887



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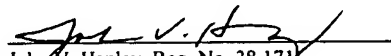
Date: March 26, 2002

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John V. Hanley, Reg. No. 38,171

**STATEMENT IN SUPPORT OF PETITION TO MAKE SPECIAL
BECAUSE OF ACTUAL INFRINGEMENT (M.P.E.P. § 708.02)**

Commissioner for Patents
Washington, D.C. 20231

RECEIVED
APR 10 2002
Technology Center 2100

Dear Sir:

I, David Cline, am the President of Balboa Instruments, Inc., 1382 Bell Avenue, Tustin, CA 92780, an assignee of this case and make the following statements:

1. I have made a rigid comparison of the MSPA and SSPA model spa controls with the claims of this application. Such products are currently being sold by Gecko Electronique Inc.
2. That, in my opinion, claims 35-40, 45-52, 54-59 and 64-71 on file in this application are unquestionably infringed.

SERIAL NO.: 10/043,799

PATENT
BALIN-59231

3. I have caused to be made searches of the pertinent prior art. All such material art identified has been provided to the Examiner in Information Disclosure Statements filed in this case.

4. That I believe all the claims in this application as on file are allowable.

Date:

03/21/2002



David J. Cline

President, Balboa Instruments Inc.

#230889



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PTO/SB/21 (08-00)

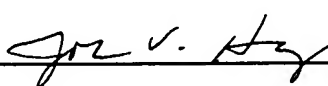
Approved for use through 10/31/2002. OMB 0651-0031

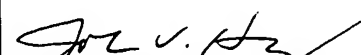
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	10/043,799
	Filing Date	01/09/2002
	First Named Inventor	Mihcael E. Tompkins
	Group Art Unit	2121
	Examiner Name	TBD
Total Number of Pages in This Submission 6		Attorney Docket Number BALIN-59231

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> After Allowance Communication to Group
<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment / Reply	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input checked="" type="checkbox"/> Petition	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	Postcard
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	RECEIVED
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	APR 10 2002
<input type="checkbox"/> Response to Missing Parts/Incomplete Application	Remarks	 24201 PATENT TRADEMARK OFFICE
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	John V. Hanley, FULWIDER PATTON LEE & UTECHT, LLP
Signature	
Date	03/26/2002

CERTIFICATE OF MAILING			
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on this date: 3/26/2002			
Typed or printed name	John V. Hanley		
Signature		Date	03/26/2002

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

APR 04 2002

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PTO/SB/17 (10-01)

Approved for use through 10/31/2002. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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FEE TRANSMITTAL for FY 2002

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT (\$) 130.00

Complete if Known

Application Number	10/043,799
Filing Date	01/09/2002
First Named Inventor	Michael E. Tompkins
Examiner Name	TBD
Group Art Unit	2121
Attorney Docket No.	BALIN-59231

METHOD OF PAYMENT

1. ☒ The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number: 06-2425
Deposit Account Name: Fulwider Patton et al.

☒ Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17

☐ Applicant claims small entity status. See 37 CFR 1.27

2. ☒ Payment Enclosed:

☒ Check ☐ Credit card ☐ Money Order ☐ Other

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Code	Large Entity Fee (\$)	Small Entity Code	Small Entity Fee (\$)	Fee Description	Fee Paid
101	740	201	370	Utility filing fee	
106	330	206	165	Design filing fee	
107	510	207	255	Plant filing fee	
108	740	208	370	Reissue filing fee	
114	160	214	80	Provisional filing fee	

SUBTOTAL (1) (\$)

2. EXTRA CLAIM FEES

Total Claims: -20** = X =
Independent Claims: -3** = X =
Multiple Dependent: =

Large Entity Code	Large Entity Fee (\$)	Small Entity Code	Small Entity Fee (\$)	Fee Description
103	18	203	9	Claims in excess of 20
102	84	202	42	Independent claims in excess of 3
104	280	204	140	Multiple dependent claim, if not paid
109	84	209	42	** Reissue independent claims over original patent
110	18	210	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Code	Large Entity Fee (\$)	Small Entity Code	Small Entity Fee (\$)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	
127	50	227	25	Surcharge - late provisional filing fee or cover sheet	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for <i>ex parte</i> reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	
128	1,960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,280	241	640	Petition to revive - unintentional	
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	130.00
123	50	123	50	Processing fee under 37 CFR 1.17(q)	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	
146	740	246	370	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	740	249	370	For each additional invention to be examined (37 CFR § 1.129(b))	
179	740	279	370	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 130.00

SUBMITTED BY

Name (Print/Type): John V. Hanley

Signature:

Registration No. (Attorney/Agent): 38,171

Complete (if applicable)

Telephone: 310-824-5555

Date: 03/26/2002

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

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